

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 16 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Policies and Rules Concerning)
Children's Television Programming)
)
Revision of Programming Policies)
for Television Broadcast Stations)

MM Docket No. 93-48

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COMMENTS OF NATIONAL BROADCASTING COMPANY, INC.

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I. INTRODUCTION AND SUMMARY

NBC takes its responsibility to provide educational and informational programming for children pursuant to the Children's Television Act ("CTA") very seriously. We believe that the rest of the television broadcast industry does so as well. Broadcast networks and television stations have already responded to the Act's requirements with a significant increase in educational and informational children's programming. While there is always room for improvement, NBC believes the conclusion of the Notice of Proposed Rulemaking ("NPRM") that this increase has been "modest at best" is inaccurate and unfair. The information submitted in this proceeding which demonstrates the nature and extent of stations' current children's educational programming efforts should lead the Commission to a different view.

Since we believe ongoing scrutiny of licensee performance and Commission exhortation has resulted in the increased educational/informational programming service for children

contemplated by the CTA, NBC continues to oppose adoption of quantitative standards or guidelines governing the amount of educational and informational children's programming required of licensees. In 1993, in response to the Commission's Notice of Inquiry in this proceeding, we argued that such quantitative requirements were antithetical to clear Congressional intent and raised serious First Amendment and other concerns. We also argued that such heavy-handed regulation was unnecessary because the broadcast industry had responded to the CTA by providing substantially more educational and informational programming for children. NBC continues to adhere to this view. We wholeheartedly endorse the Commission's stated goal of articulating rules that are clear, simple and fair. But in the sensitive area of programming judgments, which are perforce subjective and infused with First Amendment concerns, the Commission should not abandon its traditional approach of deferring to the good faith discretion of its licensees. This is clearly what Congress intended when the CTA was adopted; the industry's response to the Act does not warrant a departure from this sound and longstanding approach.

NBC for the most part supports the NPRM proposals that are designed to provide parents and local communities with more information about the educational and informational children's programming available on television. We also support some of the procedural aspects of the Commission's proposals to clarify further its definition of "educational and informational" programming, although we cannot support a government-imposed, content-based definition that speaks in terms of the "significant purpose" of "core" educational children's programming.

Instead of either a "safe harbor" processing guideline or a quantitative program standard -- requirements which are contrary to Congressional intent, unwise and unnecessary -- NBC urges the Commission to (1) reaffirm the importance of compliance with the programming requirements of the CTA in the license renewal process, and (2) establish a procedure to monitor closely the amount of educational and informational programming television licensees broadcast over the next three broadcast seasons. At the end of the monitoring period, the Commission can assess the television industry's performance in light of both the measures the Commission adopts in this proceeding and the increased availability of network and other educational programming for children, and can determine whether further regulatory action is appropriate.

In particular, the Commission should examine whether affiliated stations are clearing the increased amount of educational and informational programming their networks are furnishing or have committed to furnish. NBC furnishes its affiliates five times more educational children's programming today than it did in 1990. Westinghouse has announced that if its acquisition of CBS is approved, it will increase the amount of educational children's programming provided by the CBS Network to three hours by 1997.

II. THE BROADCAST INDUSTRY'S PROGRAMMING SERVICE TO CHILDREN

NBC respectfully disagrees with the NPRM's conclusion that the increase in the amount of educational and informational programming for children since the implementation of the CTA has been "modest at best." According to a new industry-wide survey conducted by the National Association of Broadcasters ("NAB") and submitted in this proceeding, the average commercial

station responding to the NAB survey broadcast over four hours of regularly scheduled, standard length educational children's programming per week in the Fall, 1994, double the amount of such programming broadcast before the CTA's programming requirements went into effect.¹ This increase was apparent in markets of all sizes, and for both affiliated stations and independents. Ninety-seven percent (97%) of the educational children's programming was broadcast after 6 AM.

The 1995 NAB survey provides strong evidence that licensees' response to the CTA has been a steady increase in educational and informational children's programming since the programming obligations went into effect. If the purpose of the Act was to effect an increase in the amount of educational and informational programming available to children on local television stations, a one hundred percent increase has surely accomplished that goal. The Commission can confirm the validity of this conclusion through implementation of the monitoring proposal suggested in the NPRM.

Since 1991, the marketplace has adjusted to the CTA's requirements. Over the past four

¹ National Association of Broadcasters, The 1990 Children's Television Act: A Second Look On Its Impact, October 14, 1995. The Commission discounted the results of the survey submitted by the NAB in response to the 1993 Inquiry on the speculative grounds that only stations with a good story to tell may have responded, and that the survey accepted at face value what the station claimed was "educational and informational" programming. The more recent NAB survey should erase the Commission's "non response bias" concerns. As noted in the NAB filing, its 1995 survey represents the responses of 559 commercial television stations (a 60% response rate), and a follow-up to the 1993 survey revealed that the stations that did not respond two years ago actually aired more educational and informational children's programming than those who did. As for the second concern, consistent with the licensee discretion the Commission continues to endorse, both the NAB in its survey and the FCC in its enforcement of CTA requirements must defer to licensees' judgments as to which programs satisfy the statute.

years, broadcast networks and other program suppliers have been providing local stations with more and more educational and informational programming. The continued expressions of concern from the Commission and Members of Congress have reaffirmed to licensees the importance of children's programming service as a component of their public interest obligations.²

The response of the NBC Television Network and NBC owned stations to the requirements of the Act is a case in point. At the time the CTA was enacted, NBC broadcast a half hour of "Saved By The Bell," which was explicitly recognized by both the Congress and the Commission as a program that served the educational and informational needs of teens. In 1992, NBC added to its schedule "Name Your Adventure," another half hour program that was specifically designed to respond to the new children's programming obligations of the CTA. Then, in the Fall of 1994, NBC determined to make two hours of its Saturday morning teen programming block qualify as educational/informational programming.

Because this two hours of live action series programming is produced in-house by NBC Productions, NBC was able to put in place a variety of procedures to ensure that every episode of

² The NPRM states that "a cursory review" of children's programming reports reveals that stations have misidentified certain programs as contributing to their compliance under the CTA (§ 18). It is unclear whether these reports covered the period immediately following the implementation of the CTA, when there was little educational/informational programming available in the marketplace and perhaps some confusion on licensees' part as to the type of programming that qualified, or whether the reports covered the more recent past. Today the networks and other program suppliers offer local stations a wide array of quality educational programming, and stations, through experience and Commission pronouncements, are more aware of the types of programming that do and do not satisfy the Act.

every show is specifically designed to serve the educational and informational needs of teens.

Those procedures include the following:

- NBC has retained a noted educator and expert in educational children's programming, Dr. Karen Hill-Scott, to work with the producers and writers of NBC's teen block programs. Dr. Hill-Scott was a witness at the Commission's en banc hearing in this proceeding, where she described in some detail her interaction with the creative teams working on NBC's teen shows;
- NBC and Dr. Hill-Scott have developed a process and procedures to ensure that each episode of each teen block program is specifically designed to be "educational and informational." First, she conducts an orientation for writers and producers regarding the show's educational mission and the level of effort it will take to achieve educational goals within the creative process. Second, each episode concept is reduced to writing and reviewed by Dr. Hill-Scott before it is developed into script form. Third, each iteration of the script is reviewed by her for content and meaning, and then modified if she believes it appropriate. Dr. Hill-Scott insists that the educational theme or message be an integral part of the plot and character development in each episode.
- Each phase of this process is documented in writing. The educational theme or objective of each episode is reduced to writing by Dr. Hill-Scott and is furnished to NBC affiliates for inclusion in their children's programming reports.

Using these procedures, beginning with the start of the 1994-95 season, NBC furnished its affiliates two hours of educational and informational programming for teens each week.³

In January, 1995, the NBC network added another half hour of educational/informational programming to its schedule with "Inside Stuff," a magazine show for teens which is produced by the National Basketball Association ("NBA"). The NBA producers follow the same processes

³ NBC's current two hours of such teen block series programs consist of "Saved By The Bell" (one hour), "California Dreams" (half hour) and "Hang Time" (half hour). These programs are broadcast by the NBC Network from 10:00 AM to 12 noon Eastern Time on Saturdays.

and procedures as NBC Productions to ensure that each episode of "Inside Stuff" is specifically designed to serve the educational and informational needs of teens. An expert educational consultant works with the producers and writers of the show to make sure that the majority of the program segments consist of educational and informational material. Most of the segments in "Inside Stuff" are shot only a few days before the show airs, so the consultant gives the producers and writers written guidance as to educational and informational focus and material based on a weekly written "run down" of the planned content of that week's show. The segments are then both shot and edited with that guidance in mind. To the extent there is scripted material, she reviews it in advance and gives the writers input to enhance the educational/informational content. Finally, the NBA's educational consultant prepares a written description of the content of each educational segment, which is furnished to NBC affiliates for inclusion in their children's programming reports. "Inside Stuff" is broadcast Saturdays from noon to 12:30 PM.

The formats NBC uses for its teen block may not always fit the stereotypical image of an educational/informational program. However, using these formats, these programs succeed in providing young viewers with educational and informational material interspersed and interwoven throughout programs that children want to and actually do watch. The Commission should be encouraging broadcasters and producers to focus their creative abilities on offering different kinds of programs that will educate children and that they will watch. Commission regulations should not straight-jacket the creative process with restrictive definitions or quantitative requirements.

In sum, since the adoption of the CTA, the NBC Television Network has increased the

amount of educational and informational children's programming it furnishes to its affiliates from a half hour in 1990, to an hour in 1992, to two hours in 1994, and, currently, to two and a half hours. This represents a five-fold increase over four broadcast seasons -- not "modest" in our view.⁴

As is the case with many NBC affiliates, NBC owned stations do not rely exclusively on the programming they obtain from the NBC Network to satisfy the requirements of the CTA. Five NBC owned stations also broadcast the half-hour syndicated news magazine program for children 12 and under entitled "News 4 Kids," which is produced by KCNC-TV, Denver, an NBC owned station until September of this year. WRC-TV, Washington, D.C. also broadcasts "It's Academic" on Saturday mornings, a question and answer quiz show that displays the academic achievements of local area students. WMAQ-TV, Chicago, produces its own monthly version of "News for Kids" (entitled "News for Kids Chicago Style"), and also broadcasts "Wild About Animals" and several educational/informational specials each year for children (i.e., "24/Seven" and "Bookin' It Back To School"). WTVJ, Miami, produces quarterly educational/informational specials for children under the umbrella of the "The More You Know" campaign. WCAU, Philadelphia, which was acquired by NBC only last month, broadcasts "Animal Adventures" and "News 4 Kids," in addition to the NBC Television Network's teen block.

⁴ This Fall, NBC sent a printed Study Guide covering its teen block programs to hundreds of junior high school principals across the country. The Study Guide contains suggestions for ways teachers can use NBC's teen block programming as a curricular resource for English and language arts projects in their classrooms.

In addition to these standard length programs, NBC, its owned stations and its affiliates broadcast a substantial amount of short segment programming that serves the educational and informational needs of children. For example, every Saturday morning, WRC-TV devotes a segment of its "Today Show" broadcast to "Teen TV," news material produced by local area teens (at a facility for which the station donated much of the equipment), on subjects of vital concern to them, including homework, religion, dating, driving, drugs and careers. All NBC owned stations also run a generous schedule of public service announcements specifically directed at children, including locally produced spots and the Peabody award-winning "The More You Know" campaign. Over 150 "The More You Know" PSAs have been produced and distributed to NBC affiliates dealing with issues ranging from substance abuse and violence prevention, to peer pressure and teacher appreciation, to stay in school. Many of NBC's owned stations produce and broadcast additional local "The More You Know" spots which are targeted to children.

The list of NBC owned stations' programming that serves children's educational and informational needs tells only part of the story. The CTA also encompasses special non-broadcast efforts which "enhance the educational and informational value" of a station's programming. WRC-TV, NBC's Washington, D.C. owned station, makes significant contributions that may have a more positive impact on children's lives than any broadcast and yet would not be recognized by a mere quantitative count of on-air children's programs. Here are some examples of WRC-TV's community-based activities for children:

- 4 Winds - Created by the station's popular weather man, Bob Ryan, in 1993, 4 Winds is a school weather project designed to be a teaching tool for science and math. With help from corporate sponsors, over 130 schools in the D.C. area have received weather equipment that students can use to measure weather phenomena. These students can also access WRC-TV's weather data through on-line computer programs. WRC-TV and volunteers from other sponsoring organizations conduct bi-annual training sessions for teachers on the equipment and weather forecasting. Currently, approximately 105,000 children participate in the project. Beginning in early 1994, schools participating in the project have had their findings reported daily on the weather segment of the station's local news. Pursuant to a May, 1995, agreement with NASA, WRC-TV premiered the use of the Internet to access earth and space science data, which is translated into graphics and images for weather and newscasts. 4 Winds schools can use their Internet connections to WRC-TV to incorporate this real time high resolution weather data into the work being done in their classrooms.

The 4 Winds project realizes the promise of the "Information Superhighway" as a resource for educating and informing children about the world around them. It also teaches them about computer technology and can help motivate them to pursue their interests in science and mathematics.

- Commitment to Youth - This multi-faceted 1994 campaign won an Emmy for community service from the Washington Chapter of the National Academy of Television Arts and Sciences. The "Teen TV" segment of that campaign, which is

described above and is still part of WRC-TV's Saturday "Today Show" broadcast, won an additional Emmy from the Washington Chapter in the category of children's broadcasts, and was nominated for a National Emmy.

Just 4 One - This is a college scholarship project that began with WRC-TV employees who, frustrated with the reality that they could not help all children in need, decided they would try to help "just one." In 1994, station employees and management raised \$6,000 to send a student to college. The project worked so well that the station created the Just 4 One Network to recognize businesses, organizations and individuals willing to make a four-year commitment to a student. Just 4 One was able to attract support from 6 Washington area businesses and two individuals, who have contributed over \$100,000 in financial and mentoring support to send eight students to college.

- It Takes A Whole Village/Black Family Reunion - As part of its It Takes A Whole Village community campaign to address the problem of violence among youth, WRC-TV was the broadcast sponsor of the Black Family Reunion Celebration, an event designed to showcase the strengths of the Black family. WRC-TV operated a Teen Pavilion at the event, with a focus on the role of families in controlling and combating violence. The Teen Pavilion featured performances aimed at teens and a conflict resolution demonstration. Families who visited the Pavilion were asked to describe what they do at home to combat violence. Some of these interviews

were included in WRC-TV's news broadcasts. Over the two day Black Family Reunion event, approximately 25,000 children visited WRC-TV's Teen Pavilion.

- 4 Your Health and Fitness Expo - WRC-TV coordinated tours for approximately 7,000 Washington area school children so they could attend this annual convention on health and fitness in February, 1995.
- Camp 4 Kids - For the past two years, WRC-TV has sent about 200 children to summer camp through this on-air campaign to provide financial assistance to those who otherwise could not afford to go.

WRC-TV broadcasts significant amounts of educational and informational children's programming each week. The station's non-broadcast efforts also have a large and positive impact on the lives of thousands of children in its local community. Hundreds of other stations across the country are engaged in similar community-based activities for children, all of which clearly serve the public interest. A regulatory scheme that ignores these non-broadcast contributions to children makes no sense. Yet that is precisely the consequence of a myopic focus on the amount of educational/informational programming as the sole means of fulfilling a licensee's obligation to serve children.

III. IMPROVING THE FLOW OF INFORMATION TO THE PUBLIC

NBC supports the notion of supplying parents and local communities with more

information about the availability of children's educational and informational programming on local television stations. We believe that the broadcast networks' Advance Parental Advisory Plan provides a model for accomplishing this goal.

National broadcast networks, local stations and national program distributors routinely supply descriptive and scheduling information to program guide services (i.e., Tribune Media Services, TV Data Technologies, TV Guide) about upcoming programming. Pursuant to their June, 1993, Advance Parental Advisory Plan, the four broadcast networks voluntarily agreed to include in that information an indication of whether a particular program carries a content advisory. The purpose of the Plan is to provide parents with advance information about programming which they believe might not be suitable for their children.

To facilitate the publication of the content advisory information, the networks agreed to a universal listing symbol ("PA") to indicate when a program contains an advisory. When a network determines that a program warrants an advisory, it includes the "PA" symbol in the materials it sends to the listing services, and the description of the program the network furnishes indicates the nature of the content that warranted the advisory.

Applying this approach to educational and informational children's programs, the Commission could suggest a universal symbol for such programs (i.e., "ED"), and urge broadcast stations to (1) include this symbol in all promotional material, press releases and print advertising relating to such programs, and (2) include this symbol in the information furnished to the program

listing services. NBC voluntarily commits to furnishing the symbol and related information on Network programming to its affiliates sufficiently in advance of the relevant broadcasts, as well as to the listing services to which it regularly supplies programming information.

The Commission should be aware, however, that imposing this requirement on television stations will not ensure that the symbol is published in the program guides. Whether or not the information is published is at the complete discretion of local newspapers, TV Guide, etc. NBC commits to joining with others to urge publishers to include this symbol in program listings when it is furnished to them as part of the regular information package they receive from stations and program distributors.

While we support supplying parents with more information, any Commission regulation in this area should take care not to make educational and informational programs unattractive to children by requiring stations to affix an "educational" label to the broadcast. While it may be true that such a requirement would provide information to parents that happen to be watching along with their children, our fear is that the label will have the effect of driving the children who are watching alone away from the show designated "educational" to a show that doesn't bear an educational label. Children do not necessarily want to watch what adults have determined is "educational." It connotes something didactic and boring, not entertaining, and not what children are looking for when they turn on the set.⁵

⁵ This is particularly true of NBC's target audience, teens, who tend to watch television unsupervised and who have many other viewing options on broadcast and cable to turn to if they don't want to watch an "educational" program.

Thus, NBC opposes a requirement that educational/informational children's shows be identified as such on-air because we think it will in the long run decrease children's viewing of quality programming. If this requirement is nevertheless imposed, stations should be able to satisfy it with an unobtrusive icon, displayed at the beginning of the broadcast, that will be sufficient to alert parents to the educational content of the show without driving young viewers away.

NBC believes unnecessary, but is willing to accept, some of the NPRM's suggested methods of improving the public's ability to monitor a licensee's efforts to comply with the CTA, including (1) the requirement that each station designate a specific person as the contact on matters concerning the CTA, (2) that the children's programming reports include information describing the educational and informational content of the programs listed, and (3) that the children's programming reports be kept separately in each station's public file.

IV. DEFINITION OF PROGRAMMING "SPECIFICALLY DESIGNED" TO SERVE CHILDREN'S NEEDS

NBC understands that there can be certain benefits in giving licensees sufficient guidance regarding their obligation to air programming "specifically designed" to serve children's educational and informational needs. However, in so doing the Commission should not disregard Congress' clear intent to give licensees wide discretion in choosing how to serve those needs. Nor should the Commission adopt definitional strictures that will, in the long run, diminish the quality of programming service for children.

The NPRM proposes to replace the current broad definition of “educational and informational,” which is consistent with express Congressional intent, with a definition of “core” programming that purports to give meaning to the “specifically designed” requirement of the statute. The NPRM proposes that “core” educational programming must meet the following requirements:

- In order to meet the “specifically designed” test, it must have education as a “significant purpose;”
- The educational objective of the program and the target child audience must be specified in writing in the licensee’s children’s programming report;
- The program must be aired between the hours of 6:00 a.m. and 11:00 p.m.;
- The program must be regularly scheduled;
- The program must be of “substantial length” (e.g., 15 or 30 minutes);
- The program must be identified as “educational children’s programming” at the time it is aired, and instructions for listing it as educational programming must be provided by the licensee to program guides.

NBC will discuss these proposed elements of “core” educational and informational programming below.

“Core” Programming Having Education As Its “Significant Purpose”

As a preliminary matter, we must once again voice our objection to the concept of “core” programming and to a government-imposed substantive definition of the type of programming that would qualify as “core.” These concepts are clearly inconsistent with the express intent of

Congress, which was to give licensees wide discretion in choosing the programs that they believed served children's educational/informational needs. The statute requires licensees to serve children's educational and informational needs through their "overall programming," including "some" programs "specifically designed" to serve those needs. The legislative history indicates:

- That the requirement "does not exclude any programming that does in fact serve the informational and educational needs of children." (House Report at 11; Senate Report at 17)(emphasis added)
- That the educational/informational needs of children "encompasses not only intellectual development, but also the child's emotional and social development. Pro-social programming which assists children to discover more about themselves and their families and the world would qualify." (136 Cong. Rec. S 10122 (daily ed. July 19, 1990)).
- That the mix of programming is "left to the discretion of the broadcaster, taking into account what other stations, including non-commercial ones, are doing in this important area." (Ibid.)

Congress did not once use the word "core" (or the concept of "core") in referring to the programs that would meet the requirements of the CTA. To the contrary, both the statutory language and the legislative history demonstrate that Congress intended the Commission to consider a licensee's overall programming in determining compliance with the Act. Nor does the statute or its legislative history describe qualifying programs in terms of their "significant purpose."⁶ Programs may have many different purposes, and it would be folly for a government agency to try to determine which of these purposes is "significant." Congress did not even imply

⁶ NBC is also concerned that the Commission's proposed definition focuses only on whether the "educational" purpose of a program is "significant," and eliminates any reference to its "informational" content, ignoring the explicit "educational and informational" language of the CTA.

that programs whose primary purpose was to entertain, but that nonetheless served children's informational and educational needs, would not meet the statutory standard or were somehow of secondary importance. What Congress did expressly state is that any program that in fact served children's educational and information needs, regardless of format or entertainment value, would qualify.

Furthermore, the standard proposed by the Commission will be extremely difficult to administer and enforce. Unlike the Act's "specifically designed" criterion, which can be measured with some objectivity in terms of the intention of the producer or the broadcaster, the "significant purpose" test is essentially subjective, and will have to be based on evaluations that are difficult if not impossible for the Commission to make and administer. The Commission cannot sit in judgment of the real purpose of a program, or the degree to which education is a more "significant" purpose than any other.

Educational Objective Specified In Writing

Although NBC opposes the adoption of a content-based definition of "core" educational children's programs, we believe there is merit to some of the procedural proposals in the NPRM which are designed to force licensees to focus more closely on the educational and informational content of their qualifying shows. In the Inquiry phase of this proceeding, NBC endorsed the proposal advanced by Children's Television Workshop that would have required qualifying educational/informational programming to be developed with the assistance of an educational advisor and to be created in conjunction with explicit educational/informational goals. As

described in Section II of these Comments, NBC has essentially adopted this approach for its teen block educational/informational programming.

We believe the processes and procedures NBC has adopted forces the creative team on each show to focus on the programs' educational/informational content, increasing both the amount and impact of educational and informational material. The public and the Commission have access to written materials, prepared by the educational consultants and furnished to our affiliates for their children's television reports, which describe the educational content of each show. Most important, we accomplish the twin goals of enhancing the educational/informational content of our programs and informing the public about our programming service under the CTA without involving the government in an evaluation of whether the educational purpose of our programs is "significant."

The NPRM has declined to require the use of educational consultants, but has proposed that the educational objective of each qualifying program, and the age group to which it is targeted, be specified in writing in licensees' children's programming reports. For the reasons articulated above, NBC supports the adoption of this requirement.

Aired Between 6 am and 11 pm

NBC does not oppose crediting stations only with those educational/informational children's programming broadcast between the hours of 6 am and 11 pm.

Regularly Scheduled

Were there to be some quantitative approach adopted, NBC would not oppose a requirement that some reasonable percentage, i.e., at least 50%, of qualifying programming be regularly scheduled. However, this should not prevent a station from counting an educational/informational program that normally is "regularly scheduled," but has been rescheduled because of preemptions for news coverage or live sports events. Such preemptions are unavoidable for local stations, particularly network affiliates in the Western states. If such rescheduled programs cannot be counted toward a licensee's CTA obligation, then there is little or no incentive to broadcast them at all once they are preempted, depriving children of the opportunity to watch those shows at a different time.

NBC also believes it would be an enormous mistake to eliminate all incentives for stations to broadcast educational/informational specials for children by ruling that programs that are not regularly scheduled, which specials by their very nature are not, cannot qualify. These can be some of the most compelling children's programs on television. For example, the broadcast and cable industry recently broadcast and cablecast a history-making animated anti-substance abuse television special for children called "Cartoon All-Stars To The Rescue." Using the cartoon characters children know and love, the program dealt with the dangers of drug abuse. The special was broadcast simultaneously on all the major television networks and hundreds of independent stations and cable outlets throughout the U.S. It reached at least 16 million children 2-11 and 32 million viewers overall, making it the largest audience ever to watch a Saturday morning program. It would be ridiculous if by Commission rule this landmark intra-industry effort to educate and

inform children on one of the most pressing issues they face was not deemed to satisfy the requirements of the CTA, simply because it was not "regularly scheduled."

The cost of losing or decreasing this type of programming clearly outweighs the benefit of regularity, which appears to be limited to making it more likely that parents will know when a program is scheduled. Clearly, educational/informational children's specials should count toward fulfillment of CTA obligations, whenever scheduled.

Substantial Length

NBC's 1993 Comments in this proceeding went to great length to explain why short segment programming can play an important role in providing education and information to children. The only reason the Commission cites for not counting short programming remains its concern that it is typically not regularly scheduled and therefore not available to parents at "predictable times." As in the case of the suggestion that special programming shouldn't qualify, this blind pursuit of the goal of giving parents the ability to steer their children's viewing toward educational/informational programming sacrifices the more important goal of reaching more children, more effectively, with educational and informational programming material.

Ignoring the value of short segment programming creates a false dichotomy between program types that makes no sense. Short segments and vignettes can be extremely effective vehicles for teaching and informing children. They may have a greater chance of attracting and holding a child's interest than a full length program. Short segments and interstitial

educational/informational programming can be inserted within and between programs that are not necessarily specifically designed for children, but which children watch in large numbers. The ten top shows watched by children are general audience prime time shows.⁷ Thus, by encouraging -- or, at least, not discouraging -- the use of short segment educational/informational programming, the material that the Commission wants children to see can, in fact, reach a larger child audience.

Identified As "Educational and Informational"

NBC has already commented on the labeling of programming as "educational" at the time of broadcast and on furnishing listing information to program guides in Section III of these Comments.

V. OPTIONS FOR INCREASING THE AMOUNT OF
EDUCATIONAL/INFORMATIONAL CHILDREN'S PROGRAMMING

Quantitative Requirements vs. Monitoring

NBC believes the industry has already responded affirmatively to the programming requirements of the CTA. Adoption of the measures NBC has endorsed in these Comments will force additional focus by program suppliers and licensees on the educational/informational content of qualifying shows, and will provide the public and the Commission with more information as to the amount and nature of the educational/informational programming available to children. If these measures are coupled with (1) a reaffirmation by the Commission of the importance of the

⁷ During February, 1995, the ten programs most watched by children aged 2-11 consisted of eight network prime time situation comedies, a prime time cartoon ("The Simpsons") and "America's Funniest Home Videos."

children's programming requirement to its license renewal process and (2) a procedure for monitoring compliance with CTA obligations over the next three broadcast seasons, NBC is confident that additional regulation will be unnecessary.

NBC believes the Commission's goals are achievable without the imposition of quantitative programming guidelines or requirements. The reason for our opposition to a quantitative approach are set forth at length in NBC's May 7, 1993 Comments in this proceeding. Briefly, we argued:

- Imposition of quantitative guidelines or requirements directly contradicts express Congressional intent;
- Quantitative requirements raise serious Constitutional issues;⁸
- Reliance on quantity alone is not necessarily an accurate measure of licensee fulfillment of public interest obligations;
- Quantitative minimums, whether couched as processing guidelines or hard and fast requirements, quickly become performance ceilings. They focus attention on the

⁸ NBC believes that mandatory quantitative guidelines or requirements will fail Constitutional scrutiny, particularly (1) when the record does not support the view that licensees have failed to fulfill the requirements of the CTA and (2) when, even if this were not the case, less restrictive alternatives exist, proposed in the NPRM itself, that would be effective means for increasing children's educational/informational programming. The Supreme Court has recently stated:

"The FCC's oversight responsibilities do not grant it the power to ordain any particular type of programming that must be offered by broadcast stations; for although 'the Commission may inquire of licensees what they have done to determine the needs of the community they propose to serve, the Commission may not impose upon them its private notions of what the public ought to hear.'"

Turner Broadcasting System, Inc. v. FCC, 114 S. Ct. 2445, 2463 (1994).